



House Finance Committee
April 16, 2015

Submitted by Allyson Blandford, Sr. Manager, State Government Affairs

Chairman Smith and members of the committee, thank you for the opportunity to submit testimony on House Bill 64 as it relates to maximum allowable cost pricing methods and PBM regulation.

Express Scripts is the nation's largest pharmacy benefits manager or PBM. We improve health outcomes by making the use of prescription drugs safer and more affordable. Express Scripts administers pharmacy benefits for Ohio employers, health plans, labor unions, Medicare beneficiaries, and TRICARE, the health plan for active-duty military, retired military and their dependents. Express Scripts helps our clients manage prescription drug spending through proven tools and techniques, including the use of formularies, retail networks, generic drugs, mail order and through our specialty pharmacy services.

We appreciate the opportunity to raise concerns with sections 3901.43 of House Bill 64, beginning on line 46760. As a pharmacy benefit manager, we use maximum allowable cost (MAC) reimbursement methods to ensure a fair reimbursement to pharmacies for generic drugs. MAC pricing was originally developed by state Medicaid programs after audits proved they were overpaying for generic medications. Today, 46 Medicaid programs, multiple federal programs, and most private payers use their own MAC processes. This method of reimbursement ensures that the pharmacy providers do not overcharge plan sponsors for generic medicines.

Express Scripts and other industry partners began discussions with the Ohio Pharmacy Association on this issue in 2014. Several meetings were held regarding favorable legislation in other states, if OPA decided to pursue a bill. It has been our goal since 2014 to collaborate with OPA on MAC legislation. In January of this year, and at the request of OPA, Express Scripts provided additional language requiring PBMs to register with the Department of Insurance.

From January through April of this year we have worked with OPA on several changes to the introduced standalone bill, HB 127, offered by Rep. Brown. Unfortunately, Rep. Brown's bill did not incorporate the changes made during negotiations with OPA. These agreed-upon changes are also not reflected in HB 64. Express Scripts supports amending the MAC language to include these changes.

Sections of House Bill 64 attempt to limit the types of generic drugs that are reimbursed at generic rates. By limiting a group of generic drugs from MAC reimbursement, drug costs will increase and pharmacies will unnecessarily profit from higher reimbursements. They essentially will purchase drugs at generic prices but be reimbursed at higher rates. Plan sponsors will see increases in their prescription drug spending and may resort to increasing copays for their members.

Sections of House Bill 64 attempt to increase regulatory oversight of PBMs by the Department of Insurance. PBMs are currently regulated under the DOI as third party administrators. The language Express Scripts provided to OPA includes additional authority including the ability for DOI to revoke registration. This authority is more than enough for PBMs to ensure compliance with all activities in the state. Additionally, our private contracts with retail providers currently include a process for arbitration.

Express Scripts has concerns with the last section of language pertaining to PBMs, lines 46910 through 46917. We are unclear of the intent behind this language. Plan sponsors select the pricing model of their choice in their contracts with PBMs. Details of pricing information vary between clients and is included in the RFP process. No state has mandated such disclosure requirements. We urge striking this language.

It is for these reasons we ask to amend the MAC language to reflect recent agreements made between the Ohio Pharmacy Association and the PBMs. We request moving forward with the DOI registration language originally offered by the PBMs. We respectfully request the language on lines 46910-46917 be stricken as it interferes with private contracts between two parties.

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If you have questions, please contact me at 317-768-7078 or at a_blandford@express-scripts.com. Thank you for consideration.